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Chair: Mr. Haniff ..... (Malaysia)

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The meeting was called to order at 10.05 a.m.

Agenda item 69: Promotion and protection of human rights (*continued*) (A/66/87)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/66/274, A/66/216, A/66/272, A/66/342, A/66/342/Add.1, A/66/204, A/66/284, A/66/253, A/66/293, A/66/372, A/66/161, A/66/310, A/66/156, A/66/203, A/66/285, A/66/262, A/66/330, A/66/268, A/66/264, A/66/289, A/66/283, A/66/254, A/66/271, A/66/270, A/66/269, A/66/265, A/66/290, A/66/325, A/66/225 and A/66/314)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/66/267, A/66/322, A/66/343, A/66/358, A/66/361, A/66/365, A/66/374 and A/66/518)

1. **Mr. Falk** (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967) noted with dismay his inability to fulfil his duties due to the non-cooperation of the Government of Israel, which, despite his repeated attempts to work out a satisfactory arrangement, persistently refused him access to the Occupied Palestinian Territory to assess the situation on the ground. He requested the support of Member States in the fulfilment of his mandated tasks. A mission to the Gaza Strip scheduled for Spring 2011 had proceeded instead to Egypt and Jordan for security reasons. Many useful meetings had been held with representatives of Palestinian non-governmental organizations (NGOs) and notable personalities who had travelled from the Occupied Palestinian Territory to discuss the human rights situation in the West Bank, Jerusalem and Gaza. Helpful discussions with the Egyptian and Jordanian foreign ministers regarding his mandate were also held. Another mission to the region was planned for early 2012.

2. His report gave special emphasis to two sets of concerns, namely, the abuse of children held in detention, especially in the West Bank; and the upsurge of settler violence and the failure of the occupying Power to accord adequate protection to Palestinians living under military administration. Since the deadline for submission of his report, several developments of note had taken place.

3. First, the Palmer Report of the Panel of Inquiry appointed by the Secretary-General to investigate the flotilla incident of 31 May 2010 had been released. The report had been adopted by Israel and strongly criticized by Turkey, especially the claims that the blockade of Gaza was lawful and that Israel had the right to enforce it under international law, even in international waters. The report had disagreed on those central issues with the earlier findings of an expert panel appointed by the Human Rights Council. His mandate and several other special procedures had also disagreed, and had issued a joint press release to dispute several claims contained in the Palmer report. Their statement had been particularly critical of the treatment of the Gaza blockade in the report as a mere security issue, thereby ignoring the adverse humanitarian impact on food, water, health and well-being in Gaza. The report was deficient from an international humanitarian law standpoint in that it did not assess the contention that the blockade, which had lasted more than four years, seemed to be a form of collective punishment of the civilian population of Gaza, in contravention of the Fourth Geneva Convention. Unfortunately, by its reasoning, which was inconsistent with the weight of expert opinion among international law specialists, the Palmer Report had provided a formal justification for the continuing denial of fundamental human rights to the people of Gaza.

4. Second, the recent request by the President of the Palestinian Authority to admit Palestine as a Member State of the United Nations was directly relevant to the Palestinian struggle to realize the right of self-determination. Statehood, even without membership, would enlarge the institutional options for Palestine to fulfil its rights under international law and to participate in peace negotiations on the basis of sovereign equality. Moreover, as the right to self-determination, to which the statehood issue applied, was inalienable and not subject to negotiation, it was not appropriate to defer consideration until direct negotiations between the parties resumed.

5. Third, serious concerns had been raised about an Israeli plan to forcibly displace Bedouin communities in Area C of the West Bank, an area that comprised 59 per cent of West Bank territory and was under the full control of Israeli occupying forces. Bedouins, a community doubly marginalized as indigenous and non-Palestinian, had been victimized by over six

decades of occupation. The Bedouins' pastoral way of life was under increasing threat from Israeli settlement plans and the resulting increase in house demolitions and attempts to displace them, in violation of their right to maintain their way of life under occupation.

6. There had been alarming increase in settler violence against Palestinians in 2011, with United Nations sources reporting injuries to 178 Palestinians, including 12 children, in the first half of the year alone, as compared to 176 for all of 2010. Furthermore, the Israeli human rights organization B'Tselem had videotaped several incidents of settler vandalism against Palestinian agricultural land and villages, an almost daily occurrence. Also disturbing was the pattern of passive support for settler activities exhibited by Israeli security forces and border police, who would shoot tear gas and stun grenades at Palestinians while doing nothing to stop settler violence. Settler harassment of Palestinian children on their way to school had discouraged many from attending school, thereby obstructing their right to education. In areas like Hebron, where settler violence was severe, international civil society organizations had stepped in to protect schoolchildren directly. Overall, the failure to prevent and punish settler violence remained a serious violation of Israel's fundamental obligation under international humanitarian law to protect civilians living under occupation.

7. During his recent mission, the Special Rapporteur had paid particular attention to the disturbing impact of prolonged occupation on Palestinian children, whose development was deformed by pervasive deprivations affecting health, education and an overall sense of security. Settler violence, night raids, detentions, house demolitions, threatened expulsions and other practices aggravated the insecurity of Palestinian children in the West Bank, while children in Gaza were traumatized by periodic violent incursions and sonic booms from overflights, compounded by the four-year closure and the unrepaired destruction of refugee camps, residential communities and public buildings by Israeli forces during Operation Cast Lead. The available evidence suggested a pattern of increasing abuse, both deliberate and resulting from the continued hardship of occupation. Moreover, child development experts agreed that children suffered much more from violations than did adults, and that protecting their rights should be a matter of urgent concern to the international community.

8. Many arrests of Palestinian children arose from allegations of stone throwing at settlers or Israeli security personnel in the West Bank. When the children of Israeli settlers were accused of assaulting Palestinians, they were subject to Israeli criminal law, which offered far more protections for minors than the military law under which Palestinian children were tried. Military law had no protective provisions regarding the presence of a parent during interrogation, the hours during which the interrogation must be conducted, or respect for the dignity of the child during the arrest process. According to United Nations agencies and reliable human rights organizations, Palestinian children were routinely arrested in the middle of the night, removed from their parents' home for questioning, abused in detention, and subjected to conviction procedures that appeared to preclude the possibility of innocence. Those arrest procedures seemed systematically intended to frighten and humiliate, and to force them to identify protest leaders in demonstrations and to refrain from peaceful anti-occupation demonstrations in future. Between 2005 and 2010, 835 children aged 12 to 17 had been prosecuted for stone-throwing. There was also abundant anecdotal evidence of child abuse associated with interrogations and arrests of children, including instances of infants threatened at gunpoint. In view of such incidents, it was little wonder that the number of children suffering from stress disorder had greatly increased.

9. In closing, he recommended the immediate adoption of B'Tselem's guidelines for the protection of Palestinian children living under occupation who were arrested or detained, as the minimum basis for compliance with international humanitarian law and international human rights standards. Materials needed for repair of water and electricity infrastructure should be allowed into Gaza forthwith, to avoid further deterioration in the health of the civilian population. Appropriate detention and imprisonment policies and practices should be developed for Palestinians, including full observance of the prohibition on transferring prisoners who were convicted by Israeli military courts of security crimes to the occupying country. The unlawful blockade of Gaza, which undermined the basic rights of an occupied population and which was irrelevant to the security of Israel, must

be lifted immediately. Lastly, he requested the International Court of Justice to issue an advisory opinion on the legal status of prolonged occupation, as aggravated by prohibited transfers of large numbers of persons from the occupying Power and the imposition of a dual and discriminatory administrative and legal system in the West Bank, including East Jerusalem.

10. **Ms. Rasheed** (Observer for Palestine) thanked the Special Rapporteur for his tireless efforts to raise awareness of the countless human rights violations committed in the Occupied Palestinian Territory. The Special Rapporteur should be encouraged to continue to disseminate the truth regarding the unjust situation faced by the Palestinian people and recommendations on how to remedy it. As noted in his report, the failure by Israel to uphold the basic rights enumerated under international law of persons it detained in the Territory — many of which were imprisoned in Israel — was a clear violation of the country's obligations as an occupying Power under the Geneva Conventions. The over 6,000 Palestinian political prisoners illegally held in Israeli prisons and detention centres, including women and children, were subjected to numerous human rights violations, ranging from detention in unsanitary conditions and solitary confinement to humiliating interrogation methods and even torture. In that connection, she asked the Special Rapporteur to elaborate on the legal ramifications of deporting Palestinian prisoners outside of the Occupied Palestinian Territory.

11. **Mr. Bustamante** (Observer for the European Union) said that the European Union remained concerned about the human rights and humanitarian situation in the Occupied Palestinian Territory, and called on Israel and all actors to fully adhere to international human rights and humanitarian law, combat impunity and focus on accountability. All parties had the responsibility to prevent, investigate and remedy violations. Noting with alarm the alleged attempts to limit the freedom of expression of civil society organizations and human rights defenders exercising their legitimate right to non-violent protest, he reminded all parties that human rights defenders' efforts to challenge injustice and raise awareness of human rights made them essential in bringing about positive and lasting changes in society. The popular movements and changes witnessed throughout the Arab world in recent months bore witness to the aspirations of populations everywhere to freedom, independence and democracy. Such aspirations were no less prevalent among Palestinians in the territories occupied since 1967. In that connection, he asked the Special Rapporteur to describe the influence of recent developments in the wider region on the efforts of his mandate and those of the United Nations and other actors to promote the defence of human rights in the Occupied Palestinian Territories.

12. **Mr. Waheed** (Maldives) said that human rights development in the Occupied Palestinian Territory could not be fully realized without conferring formal statehood on Palestine. Expressing concern at the continuing neglect of the basic human dignity of the Palestinian people under occupation, he stressed that the international community must continue to focus on such issues as the growing scarcity of clean water, the need for new schools, and the creation of a dual legal system in the West Bank under which children were prosecuted. Polarized stances such as the Israeli settlers' refusal to relocate even in the face of Government intervention and the Palestinian insistence that all settlements must be removed, neither served the common good nor facilitated much-needed dialogue.

13. When an occupying Power administered justice over and controlled a subdued populace, the grievances on both sides could only increase, thereby diminishing the possibilities for effective diplomacy. International recognition of Palestine as a State would enable the Palestinian people to police itself, negotiate its own interests and develop its own social and economic infrastructure in peace with Israel. His Government fervently hoped that the recommendations of the Special Rapporteur would be implemented and that the Security Council would vote in favour of a free and independent Palestinian State.

14. **Ms. Alsaleh** (Syrian Arab Republic) said that her delegation lauded the efforts of the Special Rapporteur in carrying out his difficult mandate at a time when politicization and double standards dominated the human rights debate, as evinced by the hegemony exercised by some powerful countries over their weak counterparts.

15. The Special Rapporteur had faced numerous obstacles to the discharge of his duties created by the Israeli occupier, who had hindered him from entry into the Occupied Palestinian Territory, thereby preventing him from confirming the existence of Israeli violations of human rights. It was ironic that the United Nations had played a role in cancelling the Special

Rapporteur's visit to Gaza when he was finally able to gain access to the territory through the Rafah crossing between 25 April and 3 May 2011, a period during which Gaza had received heads of State, ministers and officials from all over the world. Those events demonstrated the lack of will on the part of the United Nations to take effective steps towards tackling the blatant and systematic violations of the fundamental human rights of Palestinians living under occupation.

16. In his report, the Special Rapporteur had rightly highlighted fears of Israeli settlement expansion, particularly in Occupied Jerusalem, the capital of the future State of Palestine, in flagrant violation of the rights of Palestinians and destroying the opportunities to establish a viable Palestinian State. Beyond those violations mentioned in the report, Israel was also responsible for the desecration of holy sites, attacks on Palestinian families by settler militias and the systematic starvation of the people of Gaza by a blockade that constituted collective punishment, in violation of the Geneva Convention. Her delegation fully endorsed the recommendations contained in the Special Rapporteur's report, despite the fact that they did not cover in detail the criminal record of the Israeli occupation. She wondered to what extent such recommendations, be they the ones contained in the current report or those in the tens of reports preceding it, could be applied.

17. **Ms. Tawk** (Lebanon) said that her delegation particularly welcomed the focus on the impact of prolonged occupation on the rights and well-being of children. She noted with alarm the trauma inflicted on Palestinian children by the increase in home demolitions and confiscations, and by the collective punishment imposed on children by the blockade on Gaza. Also deeply disturbing was the increase in settler attacks on children and schools, carried out with the protection of the occupation army. In light of the systematic violations of international humanitarian law in the Occupied Palestinian Territory and the equally persistent stalemate between the parties, she enquired why the United Nations had been incapable, in that particular conflict, of acting on the values it had established and of upholding the principles contained in its Charter. The United Nations was the international actor best positioned to ensure respect for the rights of victims under international humanitarian law and to help reach a fair settlement of the conflict, one that would redress the historical injustice done to the Palestinian people.

18. **Mr. Abdullah** (Malaysia) said that the Malaysian Government and people were unwavering in their support for the establishment of an independent Palestinian State, and for the membership application of Palestine in the United Nations, based on a two-State solution and taking into account the security concerns of both parties. As the Special Rapporteur had noted, the Palestinian people's inalienable right of self-determination underpinned the discussion of human rights in the Occupied Palestinian Territory.

19. Malaysia was deeply anguished by the unending cycle of violence that had come to characterize the conflict. The only way forward was to guarantee the basic human rights of Palestinians, including their right to an independent State. In that connection, the heightened focus in recent months on the issue of Palestinian self-determination must be channelled constructively to promote cooperation among nations, with a view to fulfilling the historic responsibility of the United Nations towards the Palestinian people. Malaysia would continue to support all international efforts to find a just, lasting and peaceful settlement of the Palestinian-Israeli conflict.

20. **Mr.** Monzer Fathi **Selim** (Egypt) said that his delegation would like to know what kind of support the Special Rapporteur sought from the international community in order to enable him to carry out his mandate effectively, in light of existing obstacles.

21. **Mr. Falk** (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967) said that the basic principle of international humanitarian law that governed the deportation of Palestinian prisoners outside the territory in which they were arrested as a result of the occupation held that a prisoner could not be transferred outside the territory occupied. The issue arose in two different settings: in the first, a Palestinian arrested in the West Bank or East Jerusalem was subsequently convicted and transferred to a prison in Israel. That common scenario had the effect of denying a prisoner contact with friends and family over many years or even decades, constituting an additional punishment. The second setting involved forcible deportation in the course of the recent prisoner release; Palestinian captives had been sent to neighbouring countries. Due to claims that the prisoners had consented to the

deportation prior to being released and that Israel had committed to allowing family reunification in whatever country they were sent to, further clarification was needed on what was, nonetheless, a serious issue.

22. The Palestinian people's struggle for realization of their rights, in particular the right to self-determination, did indeed benefit from regional developments associated with the Arab Spring, as the citizenry of various Arab countries was extremely supportive of the Palestinian quest for peace and justice. Moreover, the more democratic the new reforming Governments in the region became, the more attentive they would be to their own citizenry and, consequently, the greater interest they would take in pursuing an internationally agreed resolution to the conflict and a sustainable peace. Addressing the hardship and isolation of the people of Gaza produced by the blockade was a priority that enjoyed wide regional support, as was the understanding that Palestinian statehood was a component of self-determination that should not be tied to negotiation of final status issues. Given that reality, there was no credible reason to defer Palestinian statehood and United Nations membership. Denying the Palestinian people that right merely expressed the failure of the international community and the United Nations system to act in accordance with the global rule of law, which should treat equals equally.

23. It was unfortunate that any country was allowed the impunity that Israel enjoyed in relation to the fundamental norms of international criminal law. The resulting political inability to implement the recommendations for further action contained in the Report of the United Nations Fact-Finding Mission on the Gaza Conflict related directly to the question of why the United Nations had not been more effective in protecting the legal rights of the Palestinian people. He stressed that a sustainable and just peace and Palestinian self-determination would not be achieved unless Palestinian legal rights were upheld. It was not enough to have a bargaining situation that reflected the relative power of the two sides and excluded consideration of the kind of rights under international law reflected in United Nations resolutions but excluded from past negotiations. It was time for the Organization to use its authority to insist that any diplomatic framework must be sensitive to the legal rights, grievances and claims of both sides, leading to greater balance and more effective negotiations.

24. With regard to the obstacles he had faced in the discharge of his duties, the issue was not personal, but one of principle that should apply to all Member States. Membership entailed an obligation to cooperate with the Organization in the discharge of its international functions, as well as with treaty obligations that reinforced that basic obligation. Israel had refused to cooperate with several United Nations enquiries, including his, that had been conducted in as honest and professional a manner as possible but without its cooperation, therefore lacking adequate exposure to the full range of relevant evidence. He hoped that, within the coming months, the Organization would begin to treat that kind of obstruction as a high-profile concern, and not just for his sake.

25. **Mr. Emmerson** (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism) said that he intended to build on the areas of best practice identified by his predecessor as a starting point for the discharge of his mandate, the core priority of which remained the need to ensure State accountability for fundamental human rights violations committed by States in the measures they took to counter terrorism. The protection of human rights was all too often seen as incompatible with effective counter-terrorism strategies. However, over the previous decade, the international community had come to accept — at least formally, if not always in practice — that it was only by strict adherence to international human rights standards that counter-terrorism strategies could succeed.

26. The central priority of the mandate notwithstanding, he was also committed to ensuring that proportionate attention was paid to the rights of direct and indirect victims of acts of terrorism, one of the areas of best practice identified by his predecessor. The General Assembly 2006 Global Counter-Terrorism Strategy (A/RES/60/288) rightly recognized the dehumanization of victims of terrorism as one of the conditions conducive to its spread. However, dehumanization was not confined to the crimes committed by terrorist groups; States could also dehumanize victims by reducing their plight to a justification for tougher counter-terrorism measures that violated human rights without addressing the suffering of the victims, and without recognizing the State's human rights obligation towards them. The

protection of the human rights of the victims of terrorism must be seen as a genuine legal duty resting primarily on States, not misused as a pretext for violating the human rights of those suspected of terrorism, for taking emergency measures that provided for excessive and disproportionate executive powers, or for other essentially political purposes.

27. He intended to support and cooperate with existing initiatives taken by States and international organizations to put the plight of the victims of terrorism onto the human rights agenda, such as the creation by the Human Rights Council of a new special procedures mandate on the promotion of truth, justice, reparation and guarantees of non-recurrence, which foresaw a victim-centred approach. He also planned to meet with victims of terrorism and representatives of victims' associations during future country visits in order to listen to their grievances and concerns.

28. Closely related to the protection of victims was the prevention of terrorism, given the international consensus reflected in the Global Counter-Terrorism Strategy that promoting human rights contributed to fighting terrorism by addressing the conditions conducive to its development. The issue was not solely one of legitimacy through compliance with international law in counter-terrorism measures adopted by States; it was also one of effective prevention, as violations of human rights were one of the conditions conducive to the spread of terrorism.

29. He thanked the Transitional Government of Tunisia for having hosted his predecessor for a follow-up mission in May 2011, and for the reforms it had embarked on to secure accountability for human rights violations committed in the name of counter-terrorism in the past. He also welcomed the invitations of the Governments of Burkina Faso and Thailand, the recent pledge by the Government of Egypt to examine his request for a second visit, and the cooperation of the Governments of Spain and Peru in their respective country mission follow-up procedures. A letter requesting an update from States on the implementation of the recommendations contained in the joint global study on the practice of secret detention in the context of countering terrorism (A/HRC/13/42) was being sent by the four mandate-holders that had prepared the study.

30. As part of his mandate, he had participated in meetings with several United Nations entities engaged in counter-terrorism efforts, including a high-level symposium hosted by the Secretary-General, and welcomed the invitation to meet with the Counter-Terrorism Committee and the Chair of the Counter-Terrorism Implementation Task Force. The attention he intended to pay to the important issues of victims' rights and prevention of terrorism would not in any sense detract from the core priority of his mandate.

31. **Ms. Dali** (Tunisia), welcoming the nomination of the Special Rapporteur and the efforts of his predecessor, said that a number of recommendations contained in the latter's report were already being implemented. Furthermore, since the 14 January revolution in her country, the Transitional Government had undertaken a number of measures to promote and protect human rights, particularly in the context of combating terrorism. Tunisia had ratified the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention Against Torture, the International Covenant on Civil and Political Rights and the Rome Statute of the International Criminal Court, in addition to granting amnesty to all political prisoners and dissolving the State Security Division and the "political police". The Government was also working to bring to justice those responsible for attacks on protestors during the revolution.

32. Her Government concurred with the previous Special Rapporteur that the current, excessively broad definition of terrorism justified the existence of certain legal and practical gaps. Work should continue towards reducing divergences and reaching consensus, so as to support counter-terrorism efforts.

33. **Mr. de Séllos** (Brazil) said that his Government, in line with the Brasilia Declaration of 2005 and the Doha Declaration of 2009, believed that counter-terrorism efforts must proceed in strict accordance with international humanitarian and international human rights law. Brazil recognized that both legal regimes were applicable to cases of violations committed by police and armed forces in the context of fighting terrorism, and did not support the establishment of standards within instruments being negotiated at the United Nations that in any way conflicted with the standards set forth in international human rights and humanitarian law. In addition to its active engagement in discussions on that matter within the United Nations, Brazil was involved in the Financial Action Task Force (FATF) and the Financial Action Task Force for South

America (GAFISUD) and had had an important role in negotiating the Inter-American Convention against Terrorism in 2002.

34. **Mr. Bustamante** (Observer for the European Union), welcoming the Special Rapporteur's report and in particular his intention to continue working on the ten areas of best practice identified by his predecessor, asked what was the most significant challenge of the mandate and what his highest hope for it was. His delegation would also like to know why the Special Rapporteur had chosen the rights of victims of acts of terrorism and the prevention of terrorism through promotion and protection of human rights as substantive areas of focus for his mandate and what concrete results he expected.

35. **Mr. Oyarzun** (Spain) said that his Government especially welcomed the Special Rapporteur's commitment to the rights of victims of terrorist acts and the obligations of States in that respect. The Special Rapporteur's mandate was indeed the most appropriate existing mechanism for the defence of victims' rights in the human rights machinery. It was important, however, to take into account the risk of equating victims of terrorism with victims of human rights violations committed by States while combating terrorism. Associations representing victims of terrorism in Spain were insistent in their demand for the establishment of a special procedures mandate-holder on victims of terrorism, a mandate that would have its basis in the work of the Special Rapporteur.

36. **Ms. Martin** (United States of America) said that her Government's approach to counter-terrorism efforts recognized that they were strongest when they prioritized respect for human rights and the rule of law. She thus welcomed the attention that the Special Rapporteur and other United Nations bodies gave to those important and often complex issues. While no one approach or single set of practices would necessarily apply in all situations, Member States must consider best practices in a manner consistent with the fundamental principles of their various legal systems.

37. Although her delegation did not agree with some of the views set forth most explicitly in paragraph 24 of the Special Rapporteur's report, it held that States should take seriously the importance of supporting and protecting the victims or potential victims of terrorism. Welcoming the Special Rapporteur's focus on the human rights of victims of terrorism and on the role of promoting and protecting human rights and fundamental freedoms in preventing terrorism, she concurred with his statement that none of the conditions conducive to acts of terrorism could justify or excuse those acts. Nonetheless, understanding more fully the relationship between neglect of human rights and terrorism was important both for the protection of human rights and for efforts to eliminate terrorism. Those important areas of focus were in turn related to, but distinct from, the question of how best to protect human rights while implementing measures to counter terrorism. In that regard, she asked which areas the Special Rapporteur planned to address in the coming year. Her delegation looked forward to an ongoing constructive dialogue with him.

38. **Mr. Roch** (Switzerland) said that the establishment of national systems that attended to the needs of victims, proposed in the Global Counter-Terrorism Strategy, was as important as the protection of human rights, especially with regard to procedural guarantees for suspects and the accused; security was impossible without liberty. A justice system could not provide victims with reparations until a legal verdict in line with human rights norms was delivered; conversely, an approach to counter-terrorism based on repression often resulted in the harm it aimed to combat. Only an approach aimed at making terrorism less appealing to the young — one that offered equitable conditions and opportunities in terms of human rights and the rule of law to all — could succeed. Given the mutually reinforcing nature of counter-terrorism, protecting the rights of victims of terrorism and defending human rights, he asked how the Special Rapporteur intended to establish a dialogue with United Nations organs and institutions, in particular the United Nations Office on Drugs and Crime.

39. **Mr. Yahiaoui** (Algeria) said that his country, which had suffered greatly on account of terrorism, spared no effort to cooperate with its regional and international partners to combat the scourge, having recently hosted a regional conference on combating terrorism and organized crime. He would welcome more information on the practical measures that might be taken to protect victims of terrorism. How did paying ransom to terrorist groups in exchange for the release of hostages fit into counter-terrorism efforts, in light of the fact that doing so increased the destructive capacities of such groups? Moreover, he wished to

know whether the Special Rapporteur planned to grant that issue special priority in future reports.

40. **Mr.** Monzer Fathi **Selim** (Egypt) said that his delegation would like to know how the Special Rapporteur planned to deal with the root causes of terrorism, since preventing the conditions conducive to acts of terrorism in the first place was as fundamental as championing the rights of the victims created by such acts.

41. **Mr. De León Huerta** (Mexico) welcomed the Special Rapporteur's insistence that counter-terrorism measures must be in line with international human rights standards, a concern that in no way conflicted with his future priorities. The focus on victims' rights was indeed important, as was the recognition that persons whose human rights were violated in the course of counter-terrorism efforts were also victims but unfortunately did not always receive the attention, support or reparation they deserved. The Special Rapporteur would surely pursue work in that area, building on his predecessor's notable efforts to address it in the context of the ten areas of best practice he had identified. He pledged his delegation's full support for the Special Rapporteur's important mandate.

42. **Mr. Barriga** (Liechtenstein) welcomed the focus on the human rights of victims in the future work of the Special Rapporteur, and asked to what extent he intended to examine the issue of Security Council sanctions and human rights compatibility.

43. **Mr. Emmerson** (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism) said that incorporating an integrated human rights approach into counter-terrorism efforts was both a major challenge and expectation, recognizing that acts of terrorism involved violations of the most fundamental human rights of their victims. States had duties and obligations in that regard, but should be mindful that when they exceeded the bounds of international law and violated human rights principles, counter-terrorism initiatives were less effective and contributed to disaffection, which fostered the spread of terrorism in the first place.

44. States could not guarantee that acts of terrorism would not be committed, but they had operational duties regarding their prevention and positive obligations in international human rights law to protect and promote respect for the right to life, including by providing an institutional and legal framework. That could be extended to the operational level, imposing on States a legal duty, where there was a real and immediate risk to life, to take all steps reasonably available to them to prevent that risk from materializing. That was part of emerging jurisprudence on the positive obligation of the right to life, to which States parties to the International Covenant on Civil and Political Rights were already legally bound.

45. States also had a duty to carry out investigations into the responsibility of perpetrators and to determine whether their own intelligence services had failed in prevention. State policymakers needed to ensure that law enforcement mechanisms complied with international human rights standards as they related to the rights of potential victims and to the rights of those who were under investigation for perpetrating acts of terrorism.

46. While taking note of the reservation expressed by the delegation of the United States of America with regard to paragraph 24 of his report, he said that the international community in general would agree that States had at least a moral obligation to provide appropriate reparations to victims of terrorism, within the resources available, including by providing medical and psychosocial support where appropriate.

47. States had obligations towards potential future victims, and in that respect, must undertake prevention duties beyond military, intelligence and law enforcement efforts and seriously engage in tackling the root causes of terrorism, including the abuse of human rights in the form of counter-terrorism initiatives which failed to comply with international law standards. He planned to provide States with specific recommendations in those areas in the near future.

48. Future work would indeed feature efforts to delist entities appearing on the Security Council sanctions list. He had recently met with the ombudsperson of the Al-Qaida and Taliban Sanctions Committee of the Security Council, and would be conducting a thorough review of the working methodology and of the outcomes in the cases currently being investigated, with a view to recognizing the progress made, but also to identifying and addressing gaps, including the need for States to engage with the ombudsperson to develop a protocol for the sharing of classified information used to justify the inclusion of individuals in the list in

the first instance. Lastly, he took note of the proposal to conduct a study into the payment of ransom to terrorist groups.

49. **Mr. Bielefeldt** (Special Rapporteur on freedom of religion or belief) said that intolerance based on religion or belief was still prevalent in many countries. Regrettably for numerous individual and religious communities all over the world, implementation of the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief was far from sufficient. His thematic report to the General Assembly (A/66/156) had focused on interreligious communication between individuals belonging to different theistic, atheistic and non-theistic beliefs, as such communication had an important role to play in eliminating prejudices and stereotypes, which were the root causes of resentment, fear, hatred, hostility, violence, terrorism and concomitant human rights abuses.

50. He emphasized the importance of appreciating the diversity of interreligious communication in terms of setting, themes, goals and modes of operation, whether through events or long-term forums and projects, at the grass-roots or leadership level, and on a formal or informal setting. States could play a constructive role in promoting interreligious communication, for example, by publicly expressing appreciation for well-defined dialogue projects or providing financial subsidies for those projects. They could also facilitate dialogue in the State framework itself or develop forums for regular encounters between people of different religions or beliefs. States should tap into the potential of informal communication processes that were not organized explicitly along denominational lines, and make a priority of ensuring the substantive and substantial participation of women in formal interreligious dialogue projects in order to address current gender imbalances.

51. If not conducted appropriately, interreligious communication could have serious negative side effects for States, if they were perceived to favour one religion or belief, for example. States must always respect the inherent dignity of all human beings and their freedom of religion or belief. When promoting interreligious dialogue projects, they should not monopolize the communication, and should strive to be inclusive and respect the principle of voluntary participation, while refraining from negatively branding communities choosing not to participate in a dialogue.

52. Emphasizing the importance of interreligious diversity and internal pluralism within religious or belief communities, he said that rather than juxtapose one religion against another, common ground and interconnections should be stressed. States should continue to enhance promotional activities in the field of interreligious communication, in a spirit of inclusiveness, non-discrimination and respect for freedom of religion or belief.

53. **Ms. Popovici** (Republic of Moldova) said that the Special Rapporteur's recent fact-finding mission to her country in September 2011 had included meetings involving representatives of Parliament, the Government and non-governmental organizations. Her Government had undertaken important reforms in the field of religion and belief which had involved broad participation of the State as well as civil society and religious communities. The Special Rapporteur had participated in a discussion organized by the Ministry of Justice of Moldova, in cooperation with a United Nations agency, to discuss the revision of a law on religious denominations in Moldova and further ensure that religious communities could practice their faith without State interference. The fact-finding mission had been an exercise in democracy for Moldova's open and changing society.

54. **Ms. Reckingen** (European Union), referring to the Special Rapporteur's mention in his report that State-sponsored interreligious communication, if conducted in an inappropriate manner, could have serious negative side effects, asked him to comment on the main challenges in that regard, in particular to fostering the involvement of religious minorities in interreligious communication. Aside from facilitating informal dialogue, she asked what else States parties could do to ensure that intrareligious diversity was fully taken into account. Lastly, as women and indigenous peoples continued to be marginalized, especially in high-level interreligious events, she would welcome information on possible cooperation between the Special Rapporteur's mandate, that relating to the rights of indigenous peoples, and the Committee on the Elimination of Discrimination against Women.

55. **Ms. Ploder** (Austria) asked what States could do to help minority groups to overcome the difficulties

faced in the context of interreligious dialogue, while also maintaining a neutral role. She also asked for examples of successful informal interreligious activities that could serve as good practices for other States.

56. **Mr. Schroeer** (Germany) said that his Government considered intercultural and interreligious dialogue as a priority in its domestic and foreign policies, and had been participating in the Asia-Europe meetings for interfaith dialogue. In 2011, Germany had actively contributed to the discussion on the role of new media in forging mutual trust and confidence in multi-religious and multi-ethnic societies, and had launched a range of bilateral interfaith dialogue initiatives. An active human rights policy was an integral part of Germany's foreign policy, including through promoting freedom of religion.

57. He asked for examples of best practices of inclusive, non-discriminatory communication initiatives undertaken by States to promote and protect religion or belief. As for the responsibility to protect the freedom of religion or belief against the undue interference of third parties, and the role of the State in particular as a host and facilitator of interfaith dialogue, he wondered whether it meant that States had a responsibility to refrain from religious activities, implying an obligation of secularism.

58. Lastly, he would be interested to hear the Special Rapporteur's views on the cases of the Iranian pastor facing the death penalty for alleged apostasy, and the recent incidents of violence against Christians in Egypt.

59. **Ms. Ciaccia** (United States of America) asked how international organizations and Governments could continue their collaborative efforts towards interfaith communication and dialogue. She would also welcome further comments on the advantages of a shared focus on the rights of women and freedom of religion.

60. **Ms. Wiley** (Canada) said that her Government was committed to fostering interfaith understanding as an important aspect of building an integrated, socially cohesive society, and expressed deep concern with regard to serious violations of the rights of the members of religious minorities, including the Coptic Christians in Egypt, Christians in Iraq, Baha'is in Iran, Christians, Tibetans, Uighurs and other vulnerable groups in China, and the Ahmadiyya community in Pakistan. Her Government was establishing an office of religious freedom within its Ministry of Foreign Affairs and International Trade, which would serve to promote the protection of the freedom of religion and of conscience as key objectives of Canadian foreign policy, and it looked forward to working with the international community to further promote and protect that freedom. She asked whether the Special Rapporteur could share positive trends and best practices in the promotion of interreligious communication.

61. **Ms. Smith** (Norway) said that her Government agreed that States had an important role to play in fostering interreligious communication, and that the eradication of stereotypes and prejudice, which were the root causes of fear, resentment and hatred, must be included as part of their policy to prevent violence and human rights abuses. Interreligious and intrareligious violence played a crucial role in that endeavour. She welcomed in particular the Special Rapporteur's recommendation to ensure the participation of women in formal interreligious dialogue as a matter of priority.

62. **Mr. Barriga** (Liechtenstein) asked the Special Rapporteur whether he thought the Committee should combine its dialogue on freedom of religion or belief with that on combating violence and intolerance, or address them separately.

63. **Mr.** Monzer Fathi **Selim** (Egypt) said that intrareligious and interreligious dialogue was essential to achieving global social harmony, and should be further explored in the Special Rapporteur's work. His Government had established a national council for dialogue involving all sectors of society, including Coptic Christians and Muslim communities, which would be holding a dialogue on a unified code for building places of worship. His delegation encouraged the adoption of legislation and best practices to eliminate incitement to hatred, discrimination and violence against religious groups, especially against migrant groups in receiving countries.

64. With respect to calls for his Government to alleviate tensions and alleged discrimination against minority groups, he emphasized that it was important to examine the specificities and dynamics of societies. While he welcomed comments from special procedures on the situation in his country, the Coptic pope himself had recently condemned the attempts by some to picture that situation as sectarian or religious violence against minorities, and that call should be respectfully

heeded. It was important to focus on the broader issue of segmentation in order to reinforce the social harmony and fabric of societies, and he hoped that a more holistic approach in addressing such matters could be adopted in the future.

65. **Mr. Ahmad** (Pakistan) said that his Government attached great importance to the protection of religious belief and had been involved in national, regional and international efforts in that regard, for example, through co-sponsoring an interfaith dialogue in Manila, and its work to promote the issue in an annual resolution in the context of the General Assembly. It had also cooperated in the context of the United Nations Alliance of Civilizations.

66. His Government had established a ministry for national harmony, which aimed to promote the interests and rights of minorities and to promote interfaith dialogue. That federal effort had been extended to the provincial and district levels to establish local committees on harmony.

67. He asked the Special Rapporteur how to ensure broader implementation of the resolution on combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief which was recently adopted by the Human Rights Council (A/HRC/RES/16/18).

68. It was regrettable that a certain State had resorted to singling out countries on given issues. Pakistan had no systematic problem of human rights violations of minorities, and all citizens were free to practise their religion and faith and to exercise their freedom of association and expression, as guaranteed by the Constitution.

69. **Mr. Yang** Chuanhui (China), with respect to comments from the delegation of Canada, said that no country had a perfect human rights record and the Canadian Government should focus on how to resolve problems of freedom of religion within its own borders before pointing the finger elsewhere. Mutual respect could go a long way to ensure effective dialogue and communication in addressing human rights matters, and in that regard, he condemned any pressure, naming or humiliating of other countries.

70. **Mr. Al-Musawi** (Iraq) said that there was an organic relationship between religious intolerance and terrorism, and it was important to look into the root cause of terrorism in the world today. A range of horrific attacks in recent years had all been carried out by terrorist groups as expressions of hatred against others and religious bigotry, and against those considered to be non-believers. His Government had undertaken measures to protect Christians and other minorities from terrorist acts, noting that such acts did not distinguish between Muslims and non-Muslims.

71. He asked the Special Rapporteur what legal measures were in place for taking action against those inciting religious intolerance, and whether there were any plans to criminalize religious intolerance and States that sponsored it.

72. **Mr. Ferami** (Islamic Republic of Iran) said that it was important to bear in mind the unique circumstances in each State. Politicization of the status of minorities in any country was not conducive to enhancing the promotion and protection of human rights. He recalled that the arrests of individuals in his country had complied with the rule of law and resulted from their illegal activities. Allegations to the contrary had no grounds.

73. **Mr. Bielefeldt** (Special Rapporteur on freedom of religion or belief) said that the manifestation of hatred, particularly against minority groups in their attempt to exercise their freedom of religion or belief, was the most shocking aspect of his everyday work. He had witnessed minority groups being prevented from holding quiet funeral services, and denied access to shelters in natural disasters. Such manifestations of hatred against minority groups, but also against religious converts and persons conducting missionary activities, was generally the result of a paradoxical combination of fear and contempt.

74. There was a need for more qualified interreligious communication, which, beyond focusing on communication between different religious groups, such as to foster Christian and Islamic dialogue, also took into account internal pluralism. Dialogue should be more open to women and those who did not consider themselves as religious, requiring a good combination of formal and informal dialogue that did not identify specific religions.

75. Highlighting a number of positive examples of interreligious dialogue, he said that the Government of Moldova had hosted a positive law reform project between religious stakeholders, although interreligious communication needed to be further developed.

Paraguay had also developed an interreligious forum to advise the Government on such issues as setting up a fair school curriculum. He had also seen positive examples of informal cooperation between Christians and Muslims in neighbourhood projects in Egypt, such as training for young people to enhance their employment opportunities. The West Eastern Divan Orchestra, which included musicians from Israel, Palestine and elsewhere, was another good example.

76. While women had a high level of participation in interreligious dialogue at the informal level, their participation in formal, high-level segments needed improvement, and States should undertake initiatives to make a visible place for the emerging participation of women.

77. In addressing the complex issue of State neutrality and secularism, he emphasized the importance of the principle of respectful non-identification of religious groups.

78. Religious intolerance and terrorism were indeed linked, and preventive activities should be undertaken to promote interreligious communication and prevent misunderstandings, with a view to achieving long-term cooperation. Restrictions on freedom of expression should be the last resort in countering hate speech. Messages of hatred should be challenged through dialogue which included policymakers, civil society, as well as the targets of the messages.

The meeting rose at 12.50 p.m.